

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (i.e., Claims 103-173; Claims 104-109, 120, 126-131, 142, 148, 149, 151, 165, 166 and 168 corresponding to claims previously withdrawn from consideration as not being drawn to the earlier-elected species-of-invention) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should again be recalled that the present invention provides bags or sacks, such as plastic bags, having an improved, easily openable construction, which allows for the option of having such bags or sacks stand stably and without other support. The plastic bag of the claimed invention includes a mouth covered by a closure flap. The closure flap may be peeled backwards in order to open the bag without damaging the walls of the bag in, or at, which the mouth is formed, with the closure flap being preferably attached to the bag via a peelable adhesive and, in a preferred embodiment, includes lines of weakness along which the closure flap may be conveniently and properly torn. Unlike that disclosed by the prior art, the mouth of the bag of the present invention is distinct from the open end of the bag for accessing the interior of the bag. A base portion may be incorporated into the plastic bag of the claimed invention to

allow it to stably stand without other supporting means.

Further, the bags, or sacks, of the present invention, as now claimed, are to include a first line of peelable adhesive formed on the front face of the bag proximate to the mouth, and a second line of peelable adhesive formed on the front face proximate an edge of the closure flap distal from the mouth. The first and second lines of peelable adhesive, unlike the applied prior art, are to extend continuously across the front face of the bag from one side edge thereof to another side edge. This construction allows for a proper seal sufficient for retaining powdery material or food, while preventing the ingress of dust or bacteria, which would be inconsistent with the purpose of the bag when enclosing food.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient bag, such as a plastic bag, having such an easy-open construction, which is made possible, in part, by locating a mouth for the bag which is distinct from the otherwise open end of the bag, while including two separate lines of peelable adhesive material formed on the front face of the bag for a complete and proper seal, either disclosed or suggested.

By the present amendments, Applicants have amended the Title of the Invention to one which is submitted to be more descriptive of the nature of invention to which the claims are directed, as required by the Examiner.

Concerning the claims, Applicants have amended Claims 110, 125, 132, 152, 162 and 169 in order to address the grounds for the Examiner's 35 U.S.C. §112, second paragraph, indefiniteness rejection of these claims. The amendments entered for these claims are submitted to be non-substantive and self-explanatory, and are respectfully contended to overcome the indefiniteness rejection of the fourth Action.

Accordingly, in view of the amendments now being entered for Claims 110, 125, 132, 152, 162 and 169, withdrawal of the Examiner's 35 U.S.C. §112, second paragraph, indefiniteness rejection is respectfully requested.

Turning now, in detail, to an analysis of the Examiner's prior art rejections of Applicants' claims, in the fourth Office Action the Examiner has rejected Claims 103, 110-113, 116, 117 and 121-125, 132-135, 138, 139, 143 and 144 (Claims 103 and 125 being the independent claims rejected), as being obvious, pursuant to 35 U.S.C. §103(a), over CITO-Kunststoffe und Verpackungsfolien GmbH, German Gebrauchsmuster No. G 90 03 401.5 ("CITO.") Relying upon the bag illustrated in FIGS. 1 - 3 of CITO, it is the Examiner's contention that CITO teaches an open end of a bag, which is present prior to filling the CITO bag and which is subsequently closed with a weld seam. The open end, which, according to the Examiner, is formed by the top edge of the rear panel and the top edge of the closure flap, is distinct from the bag mouth, which is

formed by the top edge of the front wall. The Examiner acknowledges that the CITO reference does not teach a bag in which the line of peelable adhesive extends continuously across the front face of the bag, but that it would have been obvious to have included a line of adhesive continuously across the face of the bag for the purpose of maintaining the sanitary conditions of the inside of the pouch by preventing ingress and egress, which could effect the condition of the bag.

In reply to the Examiner's obviousness rejection of independent Claims 103 and 125, and the dependent claims enumerated in the §103(a) rejection, it is respectfully contended that the closure flap of the bag disclosed in the CITO reference adheres differently from that as now claimed by the instant Applicants. The presently claimed invention has two continuous lines of adhesive extending across the entire width of the front face of the bag for adhering the closure flap to the front face. CITO neither teaches this type of closure, as the Examiner appears to acknowledge, and, in fact, should be viewed as teaching against what Applicants are now claiming.

CITO discloses the use of discrete "pads" of adhesive to attach the closure flap to the front face of the bag therein. These rounded pads are illustrated in FIG. 2 of CITO and designated by reference numeral 21. CITO further teaches that

the pads may be replaced by continuous lines of adhesive in the region between the sides of the bag (16, 17) and the lines of weakness (14, 15), respectively. CITO does not disclose or suggest the placement of continuous lines of adhesive between the lines of weakness (14, 15), i.e., in the region which forms the tear-back portion (18) of the closure flap; portion 18 being mainly secured by the tab (19) with the option of some adhesive pads (21), again, a point upon which both the Examiner and Applicants would seem to agree.

Functionally, Applicants submit that this is a significant distinction when the bag is intended for powdery material, such as food ingredients, since without a continuous line of adhesive, a proper seal for retaining the powdery material cannot be guaranteed. Likewise, ingress of dust, bacteria and the like cannot be prevented to the extent which is necessary with food products.

This distinction between CITO and that which is now being claimed by Applicants exists, and logically follows from that taught and suggested by CITO, because the CITO citation is concerned with packaging articles, such as sanitary towels, so the problems of powder egress and contamination from dust ingress isn't properly considered and simply isn't important.

Further, with respect to the bag disclosed in CITO, there is sealing between the closure flap and the front face

of the bag. Instead, CITO relies upon sealing the bag walls (12, 13) "in such a way that the bag walls 12, 13 are tensioned, whereby a certain pressure is exerted on the packed articles." (PTO English Translation, Page 6, lines 13-16) Applicants contend that such a construction would not be appropriate for enclosing powdery contents, since it would inevitably promote leakage of the contents - in contrast to the relatively bulky articles with which CITO is concerned.

Assuming, *arguendo*, that a more secure, or continuous, seal would allow the CITO bag to functionally more properly or efficiently, as the Examiner has contended in the fourth Office Action, the CITO citation, rather than suggesting or rendering obvious the claimed invention, works to establish why that which is now being claimed is an improvement over what is taught and reasonably suggested by CITO. While it may seem "obvious" in hindsight to have utilized a line of adhesive continuously across the face of the CITO bag to have achieved an improved result, this is not what is taught or suggested by CITO, and is, in fact, "taught against" by the CITO citation, as explained above, which must be seen as deliberately using a different type of adhesive.

Essentially, both Applicants and the Examiner jointly recognize how the bag disclosed in CITO might be improved, however, the Examiner's recognition of such improvement in light of Applicants' disclosure cannot properly form the

basis for rejecting Applicants claims as legally obvious under 35 U.S.C. §103(a), even if the Examiner might view the differences between that which is claimed by the instant Applicant and that found in CITO to be obvious in retrospect.

In view of the foregoing, Applicants respectfully contend that the CITO citation fails to render obvious the present invention, as claimed, and, consequently, the Examiner's 35 U.S.C. §103(a) obviousness rejection of Claims 103, 110-113, 116, 117, 121-125, 132-135, 138, 139, 143 and 144 should be seen as having been overcome and should now be appropriately withdrawn.

Separately, the Examiner has rejected independent Claims 145 and 162 (and various dependent claims) as being obvious, pursuant to 35 U.S.C. §103(a), over CITO, taken in view of Moran, U.S. Patent No. 3,534,520. Moran has been secondarily applied in the rejection of independent Claims 145 and 162 because of its teaching of its bag bottom construction, and not for its manner of closing or containing contents, as CITO has been so applied. Thus, assuming *arguendo*, that Moran teaches a bag having a base construction similar to that recited in independent Claims 145 and 162, it is nevertheless respectfully submitted that, with the inclusion of recitation of two continuous peelable lines of adhesive extending along the front face of the bag, that Claims 145 and 162 are patentable over CITO and are not obvious, when taken in view of

Moran, which pertaining to a possible base construction for such bag and not concerning any feature having to do with securing closing the bag.

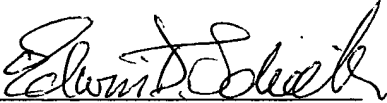
In light of the foregoing, Applicants' respectfully contend that the Examiner's 35 U.S.C. §103(a) obviousness rejections of independent Claims 145 and 162, which apply CITO considered alone, or in further view of additional prior art, have been overcome by virtue of the amendments now being entered, and that such obviousness rejections should now be appropriately withdrawn.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (i.e., Claims 103-173) recite a novel and efficient bag, such as a plastic bag, having such an easy-open construction, which is made possible, in part, by locating a mouth for the bag which is distinct from the otherwise open end of the bag, while including two separate lines of peelable adhesive material formed on the front face of the bag for a complete and proper seal, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the out-

standing rejections and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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January 22, 2004

The Commissioner is hereby authorized to charge the Deposit Account of Applicants' Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the present application, but which have not otherwise been provided for.